

## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 7, 2006

The Honorable Ted Poe U.S. House of Representatives Washington, DC 20515

Dear Congressman Poe:

This responds to your letter to the President regarding the sentences received by Ignacio Ramos and Jose Alonso Compean. Each Member who signed this letter will receive an identical response. We apologize for any inconvenience our delay in responding may have caused you.

On October 19, 2006, United States District Judge Kathleen Cardone sentenced Ignacio Ramos to 132 months and Jose Alonso Compean to 144 months in federal prison on charges connected to the February, 2005, shooting incident. We have enclosed three press releases from the United States Attorney's Office for the Western District of Texas which provide additional information.

As to the issue you raise of a Presidential pardon, should Messrs. Ramos and Compean wish to petition for elemency, they may contact the Office of the Pardon Attorney at the Department of Justice for further information on eligibility and procedures. The address is: Office of the Pardon Attorney, U.S. Department of Justice, 500 First Street, NW, Suite 400, Washington, DC 20530.

We appreciate your interest in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

James H. Clinger

Acting Assistant Attorney General

Enclosures



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Washington, D.C. 20530

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The Honorable Ted Poe U.S. House of Representatives Washington, D.C. 20515

Dear Congressman Poe:

This responds to your letter to the Attorney General regarding the prosecution and conviction of former U.S. Border Patrol (USBP) Agents Ignacio Ramos and Jose Alonso Compean in the Western District of Texas.

On October 19, 2006 United States District Judge Kathleen Cardone sentenced Ignacio Ramos to 132 months and Jose Alonso Compean to 144 months on charges connected to the February, 2005 shooting incident. We have enclosed three press releases from the United States Attorney's Office for the Western District of Texas which provide additional information.

As you know, the laws of the United States make it a crime for law enforcement to use excessive force in apprehending suspects. Be assured that the Department will continue to prosecute extraordinary cases such as this that violate an individual's constitutional rights in this manner to the fullest extent of the law. Although the sentence may seem harsh to you, the Department of Justice and the courts are bound by law. Messers Ramos and Compean received a fair trial, and the court must impose a sentence as established by law, taking into consideration the sentencing guideline range fixed for these offenses. The guideline ranges have been established to ensure that the sentences for similar offenses by similar defendants will usually be uniform throughout the country.

Each Member who signed the letter will receive an identical copy of this responsive letter.

The Honorable Ted Poe Page 2

We appreciate your interest in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

James H. Clinger

Acting Assistant Attorney General

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Enclosure



## U.S. Department of Justice U.S. Attorney's Office Western District of Texas

Johnny Sutton, U.S. Attorney

#### FOR IMMEDIATE RELEASE

September 8, 2006

Shana Jones, Special Assistant Daryl Fields, Public Affairs Officer (210) 384-7452

# RESPONSE OF THE GOVERNMENT TO REPORTING INACCURACIES REGARDING THE COMPEAN AND RAMOS PROSECUTION

In response to misstatements and misinformation being reported in the media regarding the prosecution of Ignacio Ramos and Jose Alonso Compean, relating to a shooting that occurred while they were on duty as U.S. Border Patrol agents on February 17, 2005, the United States Attorney's Office for the Western District of Texas releases this advisory summarizing the evidence presented at defendants' trial.

As will be demonstrated by the summary below, the defendants were prosecuted because they had fired their weapons at a man who had attempted to surrender by holding his open hands in the air, at which time Agent Compean attempted to hit the man with the butt of Compean's shotgun, causing the man to run in fear of what the agents would do to him next. Although both agents saw that the man was not armed, the agents fired at least 15 rounds at him while he was running away from them, hitting him once.

On February 17, 2005, Border Patrol Agents Ignacio Ramos and Jose Alonso Compean were on duty along the U.S./Mexico border, working out of the Fabens Border Patrol Station. At approximately one o'clock in the afternoon, Agent Compean observed a van near the border about two and a half miles west of Fabens. According to the testimony, the driver of the van, Osvaldo Aldrete-Davila, failed to yield to Agent Ramos' attempt to stop him, jumped out of his vehicle and attempted to run back to Mexico. After Ramos told Aldrete-Davila to stop, Ramos drew his service revolver and pointed it at Aldrete-Davila. Aldrete-Davila jumped into a steep ditch filled with dirty water and when he tried to climb the steep incline out of the ditch, he was confronted by defendant Compean, waiting for him with a shotgun pointed directly at him. During his testimony, Compean acknowledged that at that time Aldrete-Davila held his hands up, as if to surrender, with his palms open, and no weapon was in either hand, or evident on his person. Another agent, who had arrived by this time and observed the scene, heard someone yell "hit him." Aldrete-Davila, who was at one time a legal resident alien of the United States and speaks some English, also heard someone yell "hit him, hit him," and specifically heard Compean yell: "Parate, parate, Mexicano de mierda." ("Stop, stop you Mexican shit."). According to testimony, Compean swung his shotgun around in an attempt to hit Aldrete-Davila with the butt of his weapon, but lost his footing and fell face down into the dirt and brush. Aldrete-Davila began to run to the river. Agent Ramos also testified that when he saw Aldrete-Davila in the ditch, he had an opportunity to look at Aldrete-Davila's hands, which he is trained to do for self defense and defense of another, and did not see any weapons in either of Aldrete-Davila's hands. When Aldrete-Davila almost reached the river, but while he was still out in the open vega area, he heard numerous gun shots. Compean fired at Aldrete-Davila at least fourteen times and Ramos fired at Aldrete-Davila once. Aldrete-Davila felt a sting in his left buttock and fell to the ground. When he reached for the location of the pain, his hand came away bloody. Fearing the shooters were about to reach his location and kill him, he turned his head and saw the two defendants holster their weapons, turn away from him and walk back north. He got up, limped to the river and returned to Mexico where he sought medical attention and learned that the bullet had caused serious injury. The bullet remained lodged in his body, causing him pain and impeding his ability to walk, until extracted by a military physician in the United States. The bullet was removed in the United States because it was an important piece of evidence and because the law requires the government to render such assistance to victims. On March 16, 2006, the bullet extracted from Aldrete-Davila's body was matched to the service weapon carried by defendant Ramos, evidencing that Ramos fired the shot that struck Aldrete-Davila.

#### Government Response / Compean and Ramos prosecution September 8, 2006 Page 2

At the time of the shooting, neither agent Compean nor agent Ramos knew that the van driven by Aldrete-Davila contained 743 pounds of marijuana. The evidence was un-controverted that, at the time the victim was shot, neither agent knew whether the driver was illegally in the United States or whether a crime had been committed. The only information they had was that the driver had failed to pull over to be identified.

According to the testimony of seven other Border Patrol agents who arrived at the scene of the incident after the shooting, neither Compean nor Ramos mentioned that the driver who absconded had a gun, or that any agent's life was in danger. Defendant Compean repeatedly denied that he had been injured by the driver and refused the supervisor's offer to file a Report of Assault on his behalf.

At the scene, Ramos told a supervisor that as the suspect fled from the vehicle, agent Compean was on the levee attempting to apprehend him. Defendant Ramos said that as the suspect tried to flee Compean either tried to grab the suspect, or did a "side to side" movement, but fell to the ground and got dirt in his eyes. Ramos did not mention the shooting, and said nothing about the suspect having a weapon. At the scene, when asked why he was so excited, Ramos told another agent that it was just the adrenalin that had him all pumped up.

An agent who encountered defendant Compean a short time later, away from the scene of the incident, testified that Compean told him, "That little bitch took me to the ground and threw dirt in my face." Compean did not indicate that he felt threatened, that his life was in danger, or that the driver had a weapon at any time. Compean did show the agent nine shell casings that he had collected at the scene and indicated he was "probably missing five more casings." Compean told the agent he had "fired some rounds...did a magazine exchange and fired some more rounds," and asked the agent to look for the additional easings. The agent proceeded to the scene of the shooting, located the additional five casings, threw them into the drainage ditch and called defendant Compean, using his cellular telephone, to tell him he had found five rounds and threw them away. The removal of the shell casings from the scene made it impossible to do a complete investigation of the shooting.

According to written Border Patrol policy, an agent who discharges his firearm at anytime, including off duty or by accident, must report the discharge to a supervisor within one hour. Both defendants Compean and Ramos had attended firearms refresher training which includes a review of this policy the day before the incident. Border Patrol policy also requires that the scene of a shooting be preserved so that the Sector Evidence Team may examine the evidence and file a written report detailing their findings so that a determination can be made of whether the discharge was justified. Evidence presented at trial indicated that, in the entire time of the defendants' employment as Border Patrol agents, every reported shooting had been ruled justified and no agent was disciplined as a result of a shooting. Defendant Ramos is a trained member of the Sector Evidence Team and a firearms instructor who teaches the discharge policy.

Testimony elicited at trial clearly established that, until an investigation began at the Washington, D.C. headquarters of the Department of Homeland Security-Office of the Inspector General on March 4, 2005, no written report had been filed, no oral report had been made, and no person in any official capacity was cognizant of the fact that a shooting had occurred or a firearm had been discharged by any Border Patrol Agent in the direction of an individual fleeing into Mexico after having failed to stop for immigration status identification on February 17, 2005. The only report of any law enforcement activity on file for the Fabens Border Patrol Station on that date was an Immigration and Naturalization form I-44, Report of Apprehension or Seizure, authored by both defendants and signed by Jose Alonso Compean. The very brief report stated that after the driver of the van failed to pull over for an immigration check: "The driver of the van began driving back south towards Mexico. The driver was able to abscond into Mexico." The report, admitted into evidence, then indicated that immediately after the driver absconded, defendant Ramos spotted the bags of marijuana in the van. No written report exists that indicates that defendant Compean was assaulted by the driver, tussled with the driver, was threatened by the driver's actions or thought the driver had a gun. Both supervisors who arrived at the scene, after the incident was over, repeatedly asked defendant Compean if he was assaulted or injured and if he wished for them to file a Report of Assault-Service Employees, which is routinely completed if an agent reports being assaulted by a suspect. Compean did not wish such a report to be filed.

Government Response / Compean and Ramos prosecution September 8, 2006 Page 3

This office did not prosecute the defendants because they had violated Border Patrol policies. They were prosecuted because they had fired their weapons at a man who had attempted to surrender, but, while his open hands were held in the air, Agent Compean attempted to hit the man with the butt of his shotgun. In fear of what the agents would do to him next, the man ran away from the agents, who then fired at least 15 rounds at him, although they had seen his open hands and knew that he was not holding a weapon and had no reason to think that he had a weapon, hitting him once causing serious bodily injury. The references to policies are made only to demonstrate that had the defendants believed that the shooting was justified, there was no reason for them to conceal it from supervisors and remove evidence from the scene. The laws of the United States make it a crime for law enforcement officers to use excessive force in apprehending suspects. It is a violation of any person's Constitutional rights to shoot at them after they have attempted to surrender, knowing that they are unarmed and pose no danger to the officers or anyone else.

At the initiation of their investigation, the DHS-Office of Inspector General contacted Aldrete-Davila who was at the time in Mexico. Aldrete-Davila was at first reluctant to cooperate with the investigation because he feared that should he return to the United States, he could be prosecuted for the offenses committed in relation to the load of marijuana he was driving on February 17, 2005. In order to secure his cooperation and appearance at trial in the United States, this office agreed that in return for his truthful testimony he would not be prosecuted for the February 17, 2005, offenses. The agreement does not immunize any other conduct.

Based on all of the evidence admitted during the two-week trial, including the lengthy testimony of both of the defendants, the jury of twelve citizens heard all of the testimony, judged the demeanor and credibility of the witnesses and unanimously found both defendants guilty beyond a reasonable doubt of eleven of the twelve counts alleged in the indictment, including assault with a dangerous weapon, assault with serious bodily injury, discharge of a firearm during the commission of a crime of violence and wilfully violating Aldrete-Davila's Constitutional, Fourth Amendment right to be free from illegal seizure, as well as obstructing justice by intentionally defacing the crime scene, lying about the incident, and failing to report the truth. Sentencing for both defendants is scheduled for October 19, 2006.

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#### U.S. Department of Justice U.S. Attorney's Office Western District of Texas

Johnny Sutton, U.S. Attorney

FOR IMMEDIATE RELEASE October 19, 2006

Shana Jones, Special Assistant Daryl Fields. Public Information Officer (210) 384-7452

#### FORMER BORDER PATROL AGENTS SENTENCED

United States Attorney Johnny Sutton announced that United States District Judge Kathleen Cardone has sentenced Ignacio Ramos and Jose Alonso Compean to 132 months and 144 months in federal prison, respectively, on charges associated with a February 2005 shooting incident at the Fabens Point of Entry. On March 8th, 2006, an El Paso. Texas, jury convicted the former U.S. Border Patrol agents of assault with serious bodily injury, assault with a deadly weapon, discharge of a firearm in relation to a crime of violence and a civil rights charge. They were also convicted of four counts and two counts, respectively, of obstruction of justice. The jury acquitted both defendants of assault with intent to commit murder.

"Federal agents who protect our border deserve our respect, gratitude and trust - it is a difficult and dangerous job. But when law enforcement officers use their badge as a shield for carrying out crimes and then engage in a cover up, we cannot look the other way. Agents Compean and Ramos shot an unarmed, fleeing suspect in the back and lied about it," stated United States Attorney Johnny Sutton.

In early 2005, the defendants shot at an unarmed Mexican National, who was transporting a load of marijuana, while he was running away from them and attempting to flee back into Mexico. During the incident, Compean fired approximately 14 rounds from his service pistol; Ramos fired one round from his service pistol striking the unarmed suspect. Ballistics testing confirmed that the bullet which struck the suspect was from Ramos' service weapon. In addition, jurors found that the defendants intentionally failed to report the shooting incident to supervisors, concealed evidence and obstructed the investigation. Finally, jurors convicted Compean of collecting and disposing the spent shell casings expelled from the defendants' firearms in an effort to prevent them from being used in official proceedings.

Richard L. Skinner, Inspector General of the U.S. Department of Homeland Security, said, "The men and women of the Border Patrol have one of the most difficult and dangerous jobs in federal law enforcement. They serve as the first line of defense for our nation's borders and work to protect our national security. Each day, Border Patrol agents are called upon to apprehend undocumented aliens, interdict dangerous drug traffickers and human smugglers, and provide aid and assistance to those in grave physical danger. Border Patrol agents are trained to respect and protect the civil rights and liberties of those they encounter. Many agents have lost their lives trying to protect the lives of others. In being given the lawful authority to use deadly force when warranted, these agents were bestowed with the highest level of trust. In committing the acts for which they were today sentenced, these two agents have betrayed the trust placed in them by the Department of Homeland Security, their fellow agents, and the public. I again commend the United States Attorney's Office for their successful prosecution of this important case. The Office of Inspector General will remain committed to aggressively investigating allegations of serious civil rights abuses to protect the integrity of the department and the trust placed in our law enforcement officers."

This case was investigated by the Department of Homeland Security Office of the Inspector General and was prosecuted for the government by Assistant United States Attorneys Debra P. Kanof and Jose Luis Gonzalez.



#### U.S. Department of Justice U.S. Attorney's Office Western District of Texas

Johnny Sutton, U.S. Attorney

FOR IMMEDIATE RELEASE October 23, 2006

Shana Jones, Special Assistant Daryl Fields, Public Information Officer (210) 384-7452

# RESPONSE OF UNITED STATES ATTORNEY JOHNNY SUTTON TO SENTENCING OF BORDER PATROL AGENTS COMPEAN AND RAMOS

In my opinion, United States Border Patrol agents are some of America's most unsung heroes. They have an enormously difficult job. They routinely go up against drug traffickers and alien smugglers often in the middle of the night in some of the most remote and inhospitable areas of the United States. At times, they face great danger. The law recognizes that agents will make mistakes, and the government takes responsibility for good faith mistakes made in the line of duty. But no agent is given license to willfully shoot an unarmed, fleeing suspect in the back simply because the job is difficult, dangerous, or important.

The simple truth of this case is that Agents Compean and Ramos shot 15 times at an unarmed man who was running away from them and posed no threat. They lied about what happened, covered up the shooting, conspired to destroy the evidence and then proceeded to write up and file a false report.

Agent Compean and Ramos were not railroaded by some over-zealous prosecutor, they were unanimously found guilty by a jury in a United States Federal District Court after a trial that lasted more than two and a half-weeks. The two agents were represented by experienced and aggressive trial attorneys, both of whom vigorously challenged the Government's evidence through cross examination. Both agents told their stories from the witness stand and had full opportunities to explain their version of events and to offer their own evidence. The jury heard everything including the defendant's claims of self defense. The problem for Mr. Compean and Mr. Ramos is that the jury did not believe their stories because they were not true.

The trial evidence showed that around 1:00 p.m. Aldrete (the Mexican alien) initially ran from the agents, but surrendered with his empty hands raised over his head after Agent Compean pointed his shotgun at him. As Agent Compean tried to push Aldrete down to the ground with the butt of his shotgun, Compean tripped and fell and Aldrete took off again toward the Rio Grande River and Mexico. Compean chased Aldrete firing at him with his pistol fourteen times, pausing once to reload and then shoot some more. Agent Ramos shot once and struck Aldrete in the buttocks. Neither agent made any further effort to apprehend him. After the shooting, Compean and Ramos decided to lie to their supervisors about the shooting and picked up and threw away the fired shell casings. Next they filed a false investigative report leaving out any mention of the confrontation with the alien.

Sutton statement – Ramos and Compean sentencing October 23, 2006 Page 2

If Compean and Ramos truly believed Aldrete was a threat, why did they abandon him after shooting him? And if they truly believed the shooting was justified, why did they not report it, leave the scene undisturbed, and let the investigation absolve them? The answers to these questions are simple. The agents knew that Aldrete did not pose a threat as he fled, they knew the shooting was unjustified and unlawful, and they knew an investigation would incriminate them. So they chose to cover up their crime. In America, law enforcement officers do not get to shoot unarmed suspects who are running away, lie about it to their supervisors and file official reports that are false. That is a crime and prosecutors cannot look the other way.

My office would have much preferred to see Aldrete convicted and sent to prison for his crimes. We are in the business of putting guys like him in the penitentiary. We do it every day. But since the agents could not identify him, found no fingerprints, could not tie him to the van and did not apprehend him after shooting him, the case against Aldrete could not be proved. The agents' criminal behavior, lies and efforts to conceal their crime destroyed their credibility before any jury.

Confronted with the willful and illegal use of deadly force by experienced Border Patrol agents, and insufficient evidence to prosecute the marijuana violation, prosecutors promised Aldrete they would not use his truthful statements and testimony to prosecute him. This type of "use immunity" is authorized by federal statute, and federal prosecutors around the country routinely make similar representations to obtain crucial testimony. As a practical matter, the promise to Aldrete gave up very little, but allowed us to investigate a serious crime of violence. Contrary to the claims of Compean, Ramos and others, this does not make the border less secure. Allowing lawless and wanton violence by even two Border Patrol agents to go unaddressed only invites further escalation of violence along the border.

Finally, Congress determined the penalties imposed on Compean and Ramos, by setting the punishment for discharging a firearm during a crime of violence at imprisonment for at least ten years, on top of any other sentence imposed. Although the penalty is stiff, Congress intended to deter and severely punish the unlawful use of guns and made no exception for law enforcement officers. If we are to demand that the laws be followed on our Southwest border we must be prepared to apply them to our own agents when they willfully and intentionally violate them.